

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 10-19) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention, as now most broadly claimed, provides a truck or trailer isolator assembly apparatus in which the air brakes of the truck or trailer remain “on” in a locked position when the truck or trailer is in a detached state until authorized personnel are able to unlock the braking system and move the trailer. As is well known in the prior art, when a trailer is disconnected, its air brakes are normally in an actuated mode. When the trailer is re-connected to a tractor or truck, compressed air is able to pass through a supply line for permitting disengagement of the air braking system. While the air brakes are necessarily in a locked state when the trailer is detached, thereby permitting a significant safety advantage, the ability of the air brakes to be controlled by mere connection to a tractor’s braking system renders security of the trailer, at best, problematic.

Applicant’s invention, as now most broadly claimed, avoids the drawbacks known to the prior art by providing a trailer isolator assembly, which includes only a single valve which is connected into a trailer compressed air supply line, so that in a “closed” state the valve permits compressed air to pass through the air supply line to the braking system and, while in an “open” state, the valve causes air in the supply line to be exhausted from the valve through exhaust means.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient trailer and truck isolator assembly, which includes only a single valve for maintaining the air brakes of a trailer in a locked condition when the trailer is in a detached state until unlocked by authorized personnel, notwithstanding any unauthorized attempt to disengage the brakes by the provision of compressed air, either disclosed or suggested.

By the present amendment, Applicant has amended independent Claim 10, and all remaining claims via dependency, to specify that the trailer isolator assembly of the present invention, while it may comprise (and be “open” to) additional elements beyond those recited in independent Claim 10, by virtue of use of the transitional term “comprising,” shall be construed as “consisting of only a single valve,” such that any “additional elements” not be one or more further valves of the type already specified in the claims.

Case law support for “closing” the language of one claim element, but not otherwise closing the language of the entire claim, is found in Mannessman Demag Corp. v. Engineered Metal Products Co., Inc., 793 F.2d 1279, 230 USPQ 45, 46 (Fed. Cir. 1986) (“The court correctly observed that the phrase ‘consisting of’ appears in clause (a), not the preamble of the claim, and thus limits only the element set forth in clause (a). The court correctly declined to read this usage of ‘consisting of’ as excluding all other elements from the claim as a whole.”). In Berenter v. Quigg, 737 F.Supp. 5, 14 USPQ2d 1175-1176 (D.D.C. 1988), following the holding in Mannessman, the district court reversed the Board of Appeals affirmance of a final rejection and entered summary

judgment against the PTO finding that “use of the open word ‘comprising’ in the preamble” still allowed the patent applicant to “close” the second step of a two-step method claim, by use of the phrase “consisting of” for that second step, without closing the entire method claim to the addition of further steps, not inconsistent with closure of the second recited method step.

Consequently, Applicant respectfully submits that independent Claim 10, as well as Claims 11-19, which depend either directly or indirectly from Claim 10, are restricted, or “closed,” to only a single valve, as defined in independent Claim 10, but are otherwise “open” to the inclusion of further, unspecified elements not inconsistent with having only a single valve of the type now recited in Claim 10.

Turning now, in detail, to an analysis of the Examiner’s prior art rejection, in the first Office Action the Examiner has rejected independent Claim 10 (and various dependent claims) as being anticipated, pursuant to 35 U.S.C. §102(b), by Parr *et al.*, U.S. Patent No. 5,747,886. It is the Examiner’s contention that Parr *et al.* discloses a valve (9b, 21, 22) connected to a trailer compressed air supply line (FIG. 3) with the valve including the features recited in the enumerated claims rejected as being anticipated by the applied reference.

In reply to the Examiner’s anticipation rejection applying Parr *et al.*, it is respectfully submitted that the apparatus taught and suggested by the applied citation necessarily has “at least two controllable valves,” as explained in Parr *et al.* at Col. 3, lines 32 – 42. By contrast with Parr *et al.*, Applicant’s presently claimed invention, as now most broad-

ly recited in independent Claim 10, is restricted to only a single valve and could no longer be fairly viewed as “reading on,” and therefore anticipated by, Parr *et al.*

It is further contended by Applicant that the elimination of an element from that which is taught by the prior art – at least a second valve – without loss of function is recognized as evidence of nonobviousness. *See, In re Application of Wickersham*, 24 USPQ 368, 370-371 (C.C.P.A. 1935) (eliminating a part of an apparatus without eliminating its function is evidence of “invention” or nonobviousness).

Accordingly, it is respectfully contended that the present invention, as now most broadly recited in independent Claim 10, is neither anticipated by, nor obvious over, Parr *et al.* and that withdrawal of the 35 U.S.C. §102(b) anticipation rejection of the first Office Action is respectfully requested.

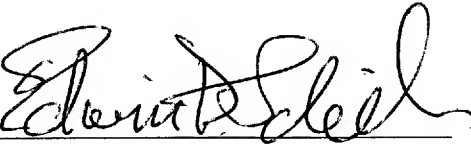
Concerning, finally, the remaining references cited by the Examiner, but not applied in any rejection of Applicant’s claims, such additional references have been carefully considered, but are not deemed to adversely affect the patentability of the present invention, as now claimed.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 10-19) recite a novel and efficient trailer and truck isolator assembly, which includes only a single valve for maintaining the air brakes of a trailer in a locked condition when the trailer is in a detached state until unlocked by authorized personnel, notwithstanding any unauthorized attempt to dis-

engage the brakes by the provision of compressed air, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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Enc.: 1. Petition for Three-Month Extension of Time for Response; and,
2. EFT for \$555.00 (Three-Month Extension Fee).

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.